

MORTGAGE BROKER TASK FORCE  
(MBTF)

Minutes of Meeting #3

August 10, 2006, 2:00 p.m.  
King Kalakaua Conference Room, First Floor  
335 Merchant Street, Honolulu, Hawaii 96813

Presiding: Nick Griffin, Task Force Chairman

Secretary: Karen Kaneko

Present: Task Force Members

Candace Chase	John Nabers
Charles Greenfield	Neal Okabayashi
Stephen Higa	Jason Okuhama
Kendall Hirai	Alvin Tanaka
Gayle Ishima	Dennis Tanimoto

Absent:	Bonnie Horibata	Nelson Oyadomari
	Harry Mattson	Beau P. Springer

In Attendance: Guests  
Donald Lau, Russell Miyashiro, Pam Herrington, Grace Ogawa, Marvin Dang,  
and Jim Dixon.

DFI Staff  
Debra Takeuchi-Au.

Minutes:

A quorum of Task Force members were present.

- A. Welcome and call to order by N. Griffin at 2:05 p.m.
- B. N. Griffin noted that the minutes from the July 13 MBTF Meeting are posted on the DFI website.

It was noted that item C-2 in the minutes states that mortgage brokers represent the borrowers; however, it was mentioned by P. Herrington that she uses the Kelex form which states that the mortgage broker is not an agent of the borrower.

Gayle Ishima (Mortgage Bankers Association of Hawaii) requested that Paragraph D.2. be amended by changing the word "agreed" to "discussed." She recollected that the fourth, fifth, and sixth bullet points were discussed, but not agreed upon.

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- C. Oral and written comments are always welcomed from the public.
- D. Reminders when working on the proposed bill – maintain clarity, comply with the Sunshine Law.
- E. Subcommittee headed by N. Okabayashi and members C. Greenfield, S. Higa, and C. Daleiden submitted working draft of proposed bill combining sections from the current HRS Ch. 454, the HAMB bill, and the DFI bill. The working draft was sent out to the MBTF members via email for review and discussion at this meeting.
- F. Neal Okabayashi (Hawaii Bankers Association) explained the draft proposed legislation, detailing the insertions and the deletions to the existing Mortgage Brokers and Solicitors Act, Chapter 454, Hawaii Revised Statutes.
  - 1. MB statute is limited to residential lending.
  - 2. Definition of “mortgage loan” is borrowed from another source.
  - 3. New definitions were added.
  - 4. Pg. 5 - \$50,000 bond for each mortgage broker and solicitor. Intent of bond is to cover damages. Part-timers need \$50,000 bond, too. No maximum limitation. Individuals may have a difficult time qualifying for a bond so suggestion was made that mortgage broker should get a bond that covers the mortgage broker as well as each solicitor (i.e., mortgage broker plus 10 solicitors = \$550,000 bond).
  - 5. Pgs. 6 & 10 – “Designated mortgage broker” is borrowed from another source.
  - 6. Pg. 12 – Employer-employee relationship – new. Should the owner be responsible for mortgage solicitors working for the owner? Employer-employee issue already in Ch. 454 but HAMB felt no State agency enforcement. Stephen Higa (Hawaii Association of Mortgage Brokers) volunteered to address the employer-employee versus independent contractor issue.
  - 7. Section 454-3 is from another source.
  - 8. Pg. 14 – Engagement letter from SB.

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9. Need more research on HAMB bill – mark up onerous sections.
  10. Pg. 16 – Fees from DFI bill.
  11. Pg. 17 – from HAMB bill.
  12. Pg. 18 – from HAMB bill.
  13. Pg. 21 – Penalty.
  14. RESPA not covered in bill.
  15. Audit – big cost for one-man shops, loss of labor, production, etc.
  16. Draft does not include commercial lending, only residential.
  17. Vague, broad terms.
  18. C. Greenfield commented that he wanted to include in the draft the prohibited acts from SB 770; 454-4b2 – licensee serve as broker; SB 770 (Section 14) – disclosure; SB 770 (Section 10) – recordkeeping requirements; Section 454-8 – penalty section; add 480.2.
  19. G. Ishima wants “operating subsidiaries of banks” to be added to proposed bill.
  20. Does Task Force wish to consider adding internet providers and brick & mortar requirements?
- G. Licensing Sanctions, etc. – Nos. 1-21 from model bill from national group representing mortgage brokers; Nos. 1-4 are redundant. **Section 454-4 – C. Greenfield to review and report back to MBTF at next meeting.**
- H. Draft #2 of proposed bill due to MBTF by Aug. 17; N. Okabayashi to email to MBTF.
- I. The draft proposed legislation did not address examinations.  
**D. Griffin to review language on examinations and audits and report back to MBTF at next meeting.**
- J. Next Meeting – August 24, 2006, 2:00 p.m.  
King Kalakaua Conference Rm.  
335 Merchant St., 1<sup>st</sup> Flr.

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K. Adjournment – 3:50 p.m.

Submitted:

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Karen Kaneko  
Secretary